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FILED

FEB 23 2001

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA INDEPENDENT SYSTEM
OPERATOR CORPORATION,

No. Civ. S-01-0238 FCD/JFM

Plaintiff,

v.

STIPULATION AND ORDER

RELIANT ENERGY SERVICES, INC.,
RELIANT ENERGY COOLWATER, LLC,
RELIANT ENERGY ELLWOOD, LLC,
RELIANT ENERGY ETIWANDA, LLC,
RELIANT ENERGY MANDALAY, LLC;
and RELIANT ENERGY ORMOND
BEACH, LLC,

Defendants.

/

WHEREAS certain of the parties to this litigation have entered into agreements relating to the relief requested in the motions currently pending before this Court,

IT IS HEREBY STIPULATED AND AGREED THAT:

1. The temporary restraining order currently in effect will expire as of 5:00 p.m. on February 23, 2001 or the date of execution by the Court of this Stipulation and Order, whichever is earlier. In the event this Stipulation and Order is not executed by the Court as of 5:00 p.m. on February 23, 2001, Plaintiff California Independent System Operator withdraws its consent thereto.

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- 1 2. The Reliant Defendants, Williams, and Dynegy (collectively "Generator
2 Defendants") will comply with emergency dispatch orders of the California ISO
3 under the terms of the ISO tariff without regard to whether ISO allocates the cost
4 of power produced in response to such a dispatch order to a creditworthy
5 Scheduling Coordinator until the earlier of the following:
6
 - 7 (a) 5:00 p.m. Pacific Standard Time on March 19, 2001, or
8 (b) two business days (but in no event less than 48 hours) after written notice
9 to this Court and the parties by a Generator Defendant that this stipulated
10 obligation is terminated as to it.
- 11 3. Notice of termination by a Generator Defendant of its obligation under paragraph
12 2(b) shall not affect the stipulated obligations or remaining Generator Defendants
13 except that, on receipt of such notice, each remaining Generator Defendant shall
14 have the right to file with the Court an election terminating its obligation. In the
15 event of such an election, the obligation of a terminating Generator Defendant to
16 comply with ISO dispatch orders imposed by paragraph 2 shall end 48 hours after
17 written notice to ISO of the election to terminate. Each terminating Generator
18 Defendant shall have the same right and status to participate in any legal
19 proceedings that follow the initial notice of termination, including any appeal.
- 20 4. The motions heard by this Court on February 16, 2001, including ISO's motion
21 for preliminary injunction, Reliant's motion to dismiss or stay pursuant to the
22 FERC order, and DWR's motion to dismiss Reliant's third party complaint, will
23 be deemed submitted at 5:00 p.m. on March 16, 2001, or at 5:00 p.m. on the day
24 written notice of termination of the obligation stipulated in paragraph 2 is filed
25 with the Court, whichever is earlier.
- 26 5. No further discovery or motions related to claims heretofore asserted may be
27 initiated in this action prior to the submission under paragraph 4 other than a
28 motion to enforce the terms of this Stipulation and Order.

- 1 6. The deadlines for filing all responsive pleadings (including but not limited to
2 DWR's answer to Reliant's third-party complaint, which deadline becomes
3 applicable only if DWR's motion to dismiss is denied; ISO's answer or response
4 to Reliant's counterclaims; and Dynegy's and Williams' answers or responses to
5 the complaint) shall be extended until 30 days after the date of submission
6 specified in paragraph 4.
- 7 7. The parties will file a joint status conference statement on Friday, March 9, 2001,
8 and will appear before the Court for a further status conference on Friday, March
9 16 at 1:30 p.m.
- 10 8. This stipulation is the result of compromise and shall not be construed as an
11 admission by any party concerning the merits of any other party's claims and/or
12 defenses. The parties' obligations under this stipulation are expressly subject to
13 all other rights and remedies the parties may have, including, but not limited to,
14 the right to seek orders by the Federal Energy Regulatory Commission with
15 respect to a generator's obligation under the ISO tariff to respond to an emergency
16 dispatch order if the ISO does not have a creditworthy scheduling coordinator to
17 which all of the costs associated with the emergency dispatched power can be
18 allocated.

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1 DATED: February 23, 2001.

2

3 FARELLA BRAUN & MARTEL, LLP

4

5

By: Norma G. Formanek (en)

6

Norma G. Formanek

7

Attorneys for Plaintiff California
Independent System Operator Corporation

8

DATED: February __, 2001.

9

10 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

11

12

By: Terry J. Houlihan

13

Terry J. Houlihan
Attorneys for the Reliant Defendants

14

DATED: February __, 2001.

15

16

PILLSBURY WINTHROP LLP

17

18

By:

19

Robert A. Mittelstaedt
Attorneys for Defendant
Dynegy Power Corp.

20

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STIPULATION AND [PROPOSED] ORDER
(CASE NO. 2:01-CV-00238 FCD/JFM)

1 DATED: February 23, 2001.

2

3 FARELLA BRAUN & MARTEL, LLP

4

5 By: _____

6

7 Norma G. Formanek
Attorneys for Plaintiff California
Independent System Operator Corporation

8

DATED: February __, 2001.

9

10 McCUTCHEN, DOYLE, BROWN & ENERSEN, LLP

11

12 By: _____

13

Terry J. Houlihan
Attorneys for the Reliant Defendants

14

DATED: February 23, 2001.

15

16 PILLSBURY WINTHROP LLP

17

18 By: Robert A. Mittelstaedt for

19

Robert A. Mittelstaedt
Attorneys for Defendant
Dynegy

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STIPULATION AND [PROPOSED] ORDER
(CASE NO. 2:01-CV-00238 FCD/JFM)

1 DATED: February , 2001.
2

3 THE WILLIAMS COMPANIES, INC.
4

5 By: Alex A. Goldberg, TS4
6 Alex A. Goldberg
7 Senior Regulatory Counsel
8 Attorneys for Defendant Williams Energy
9

10 DATED: February , 2001.
11

12 WILLIAMS & CONNOLLY, LLP
13

14 By: Steve Raber
15 Attorneys for the AES Defendants
16

17 DATED: February 23, 2001.
18

19 OFFICE OF THE ATTORNEY GENERAL
20 OF THE STATE OF CALIFORNIA
21

22 By: Vickie P. Whitney
23 Vickie P. Whitney
24 Deputy Attorney General
25 Attorneys for Intervenor People of the State of
26 California ex rel. Electricity Oversight Board
27

28 DATED: February 23, 2001.
29

30 STATE OF CALIFORNIA
31 ELECTRICITY OVERSIGHT BOARD
32

33 By: Sidney Mannheim Jubien
34 Sidney Mannheim Jubien
35 Senior Staff Counsel
36 Attorneys for the Electricity Oversight Board
37

38 STIPULATION AND [PROPOSED] ORDER
39 (CASE NO. 2:01-CV-00238 FCD JFM)

1 DATED: February 23, 2001.

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OFFICE OF THE ATTORNEY GENERAL
OF THE STATE OF CALIFORNIA

10 By: Richard M. Thallhammer
11 Richard M. Thallhammer
12 Supervising Deputy Attorney General
13 Attorneys for the California Department of
14 Water Resources, ^{Specially appearing}
15 and without waiving any objections to its
16 status as a party herein.

Pursuant to the above stipulation, IT IS SO ORDERED.

DATED: February , 2001.

Frank C. Damrell
The Hon. Frank C. Damrell, Jr.
United States District Judge

STIPULATION AND [PROPOSED] ORDER
(CASE NO. 2:01-CV-00238 FCD/JFM)

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21313106.3/23170-0004

United States District Court
for the
Eastern District of California
February 23, 2001

* * CERTIFICATE OF SERVICE * *

2:01-cv-00238

CA Independent

v.

Reliant Energy Svc

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on February 23, 2001, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Norma G Formanek
NOT EDCA ADMITTED
Farella Braun and Martel
235 Montgomery Street
Suite 3000
San Francisco, CA 94104

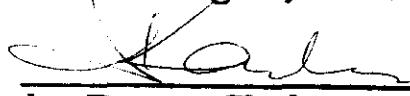
MP/FCD

Terry James Houlihan
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California State Electricity Oversight Board
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Suite 1250
Sacramento, CA 95814

Jack L. Wagner, Clerk


by: Deputy Clerk